

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member Yee

February 22, 2005

~~An act to amend Section 21625 of the Business and Professions Code, relating to personal property.~~ *An act to amend Sections 21625, 21626, 21626.5, 21627, 21628, 21630, 21631, 21633, 21640, 21641, 21642, 21645, and 21647 of, to amend and repeal Section 21633 of, to amend, repeal, and add Section 21636 of, to add Sections 2167.2, 21628.3, 21628.6, 21632, 21635, 21636.4, 21636.7, 21636.8, and 21648 to, to repeal Section 21634 of, and to repeal and add Section 21628.1 of, the Business and Professions Code, and to amend Sections 21300, 21301, and 21307 of, to amend, repeal, and add Section 21208 of, to add Section 21308 to, and to repeal Section 21300.1 of the Financial Code, relating to personal property, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as amended, Yee. Dealers and pawnbrokers.

Existing law generally requires a pawnbroker, secondhand dealer, coin dealer, and business machine dealer, as defined, to report specified transactions to the local law enforcement agency where their business is located. Under existing law, upon implementation of an electronic reporting system by the Department of Justice, secondhand dealers and coin dealers are generally required to report this information electronically. Existing law requires that a local law enforcement agency issue a license to engage in the business of a secondhand dealer or pawnbroker to an applicant who meets designated criteria and allows the assessment of a licensure fee.

Existing law makes a knowing violation of the provisions regulating these dealers a crime.

This bill would require, until the Attorney General certifies that an electronic data reporting system is operational, a secondhand dealer, coin dealer, business machine dealer, and pawnbroker to retain in his or her possession for a period of 30 days all reported secondhand tangible personal property, as defined . The bill would require the Attorney General, in consultation with local law enforcement agencies and others, to take specified steps toward developing that system and to report to the Legislature on or before January 1, 2007, on the development process. The bill would require, subject to funding and system development criteria, that the electronic data reporting system be operational on or before January 1, 2008, and receive all transaction reports on or before January 1, 2009. The bill would, upon the Attorney General certifying that an electronic data reporting system is operational, change the 30-day holding period for secondhand tangible personal property to a 10-day holding period.

The bill would extend the licensure provisions to coin dealers and business machine dealers and would also extend the licensure and reporting requirements imposed on dealers to persons who advertise as a dealer. The bill would make it a misdemeanor to advertise as a dealer or pawnbroker without being licensed to engage in those businesses and would also make engaging in the business of a dealer or pawnbroker without a license subject to the assessment of a civil penalty.

The bill would require payment of a specified licensure and renewal fee to the Department of Justice by dealers and pawnbrokers. The bill would also authorize local licensing authorities to assess a fee for license processing activities and would require those authorities to collect a fee from licensure applicants and forward it to the Department of Justice to conduct a criminal background inquiry. The bill would require deposit of the revenue collected by the Department of Justice into the Electronic Data Reporting System Fund, which would be created by the bill. Because the bill would continuously appropriate specified fee revenue to the Attorney General to implement and operate the Electronic Data Reporting System, it would make an appropriation.

The bill would require a secondhand dealer and a pawnbroker to delineate in their reports those transactions that were conducted at a gun show or event, as defined, and would prohibit acquisition of

secondhand tangible personal property having an adulterated or obliterated serial number. The bill would also extend to business machine dealers hold provisions pertaining to property that a peace officer has probable cause to believe is stolen.

Because the bill would increase the duties of a local agency by increasing the number of persons subject to licensure by a local law enforcement agency and the local provisions for suspected stolen property, and would make additional activities subject to criminal prosecution, it would impose a state-mandated local program. [PU RN20050113406] [PU 20030SB__189397AMD] [PU RN20050113406]

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law generally requires a pawnbroker, secondhand dealer, coin dealer, and business machine dealer, as defined, to report specified transactions to the local law enforcement agency where their business is located.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 21625 of the Business and Professions~~
- 2 ~~Code is amended to read:~~
- 3 *SECTION 1. Section 21625 of the Business and Professions*
- 4 *Code is amended to read:*
- 5 *21625. (a) It is the intent of the Legislature in enacting this*
- 6 *article to curtail the dissemination of stolen property—and, to*
- 7 *facilitate the rapid recovery of stolen property, and to aid the*
- 8 *State Board of Equalization to detect possible sales tax evasion*
- 9 ~~by means of a uniform, statewide, state-administered program of~~

1 ~~regulation~~ system of licensing and regulation of all persons or
2 business entities buying, selling, trading, accepting for auction or
3 for sale on consignment, auctioning, or taking in pawn of
4 secondhand tangible personal property and by the
5 implementation, deployment, and maintenance of a single,
6 uniform, statewide, state-administered electronic data reporting
7 system that records reportable transactions of persons or
8 business entities whose ~~principal business is~~ includes the buying,
9 selling, trading, accepting for auction or for sale on consignment,
10 auctioning, or taking in pawn of secondhand tangible personal
11 property ~~and to aid the State Board of Equalization to detect~~
12 ~~possible sales tax evasion.~~

13 (b) Further, it is the intent of the Legislature in enacting this
14 article to require ~~the uniform statewide reporting of tangible~~
15 ~~personal property acquired by all persons or business entities~~
16 ~~whose principal business is~~ includes the buying, selling, trading,
17 accepting for auction or for sale on consignment, auctioning, or
18 taking in pawn of certain items of secondhand tangible personal
19 property, ~~unless the property or the transaction is specifically~~
20 ~~exempt herein as defined in Section 21627, to timely report those~~
21 ~~transactions to the Department of Justice through the electronic~~
22 ~~data reporting system, for the purpose of correlating these reports~~
23 ~~with other reports of city, county, and city and county, and state~~
24 ~~law enforcement agencies and further utilizing the services of the~~
25 ~~Department of Justice to aid in tracing and recovering stolen~~
26 ~~property.~~

27 (c) Further, it is the intent of the Legislature that the electronic
28 data reporting system be operated and maintained in a manner
29 in which all city, county, city and county, and state law
30 enforcement agencies may timely retrieve reportable
31 transactions.

32 (d) Further, it is the intent of the Legislature that the single
33 uniform, statewide, electronic data reporting system be funded by
34 the assessment of state license fees paid by every person or
35 business entity whose business includes the buying, selling,
36 trading, accepting for auction or for sale on consignment,
37 auctioning, or taking in pawn of secondhand tangible personal
38 property, and that the electronic data reporting system be
39 operated by the Department of Justice in a manner that
40 facilitates the rapid recovery of stolen or embezzled property and

1 *safeguards the privacy protections of consumers and businesses*
2 *provided for under state and federal law.*

3 (e) *The Legislature finds and declares that this article shall not*
4 *be superseded or supplanted by the provisions of any ordinance*
5 *or charter of any city, county, or city and county.*

6 *SEC. 2. Section 21626 of the Business and Professions Code*
7 *is amended to read:*

8 21626. (a) A “secondhand dealer,” as used in this article,
9 means and includes any person, copartnership, firm, or
10 corporation whose business includes buying, selling, trading,
11 taking in pawn, accepting for sale on consignment, accepting for
12 auctioning, or auctioning secondhand tangible personal property.
13 ~~A “secondhand dealer” does not include a “coin dealer” or~~
14 ~~participants at gun shows or events, as defined in Section~~
15 ~~478.100 of Title 27 of the Code of Federal Regulations, or its~~
16 ~~suecessor, who are not required to be licensed pursuant to~~
17 ~~Section 12071 of the Penal Code, who are acting in compliance~~
18 ~~with the requirements of Section 12070 and subdivision (d) of~~
19 ~~Section 12072 of the Penal Code, and who are not a “Gun Show~~
20 ~~Trader,” as described in paragraph (5) of subdivision (b) of~~
21 ~~Section 12070 of the Penal Code.~~

22 (b) As used in this section, a “coin dealer” means any person,
23 firm, partnership, or corporation whose principal business is the
24 buying, selling, and trading of coins, monetized bullion, or
25 commercial grade ingots of gold, or silver, or other precious
26 metals.

27 *SEC. 3. Section 21626.5 of the Business and Professions*
28 *Code is amended to read:*

29 21626.5. ~~“Secondhand~~ *As used in this article, “secondhand*
30 *dealer,”* ~~as used in this article,~~ does not include ~~either~~ any of the
31 following:

32 (a) Any person who performs the services of an auctioneer for
33 a fee or salary, *and who does not take possession of the property.*

34 (b) Any person whose business is limited to the reconditioning
35 and selling of major household appliances, ~~provided if~~ all the
36 following conditions are met:

37 (1) The person does not trade, take in pawn, accept for
38 drop-off, accept as a trade-in, accept for sale on consignment;
39 ~~accept~~ *or* for auction, auction, or buy, except in bulk, the
40 appliances.

1 (2) The person does not perform repair services for owners of
2 appliances unless the appliance was purchased from the person.

3 (3) The person has never been convicted of the crime of
4 attempting to receive or receiving stolen property or any other
5 theft-related crime.

6 (c) *A public charity or charitable organization that receives*
7 *secondhand tangible personal property as a nonmonetary*
8 *donation.*

9 (d) *A participant at a gun show or event, as defined in Section*
10 *478.100 of Title 27 of the Code of Federal Regulations, or its*
11 *successor, who is not required to be licensed pursuant to Section*
12 *12071 of the Penal Code, who is acting in compliance with the*
13 *requirements of Section 12070 and subdivision (d) of Section*
14 *12072 of the Penal Code, and who is not a “gun show trader” as*
15 *described in paragraph (5) of subdivision (b) of Section 12070.*

16 (e) *Swap meet operators or vendors as defined in Section*
17 *21661.*

18 (f) *Any person whose business is limited to the buying, selling,*
19 *trading, or accepting for sale on consignment of secondhand*
20 *clothing, if all of the following conditions are met:*

21 (1) *The person does not trade, accept for sale on consignment,*
22 *accept for auction, auction, or buy furs, clothing ornamented*
23 *with precious stones or gems, or such other clothing.*

24 (2) *The person has never been convicted of the crime of*
25 *attempting to receive or receiving stolen property or any other*
26 *theft-related crime.*

27 SEC. 4. *Section 21627 of the Business and Professions Code*
28 *is amended to read:*

29 21627. ~~(a)~~ As used in this article, ~~“tangible personal~~
30 ~~property”~~ *“secondhand tangible personal property”* includes, but
31 is not limited to, all of the following:

32 (a) *All secondhand tangible personal property which that bears*
33 *a serial number or personalized initials, engravings, or*
34 *inscription or which, at the time it is acquired by the secondhand*
35 *dealer, bears evidence of having had a serial number or*
36 *personalized initials or inscription.*

37 (b) ~~“Tangible personal property” also includes, but is not~~
38 ~~limited to, the following:~~

1 ~~(1) All tangible personal property, new or used, including~~
2 ~~motor vehicles, received in pledge as security for a loan by a~~
3 ~~pawnbroker.~~

4 ~~(2) All tangible personal property that bears a serial number or~~
5 ~~personalized initials or inscription which is purchased by a~~
6 ~~secondhand dealer or a pawnbroker or which, at the time of such~~
7 ~~purchase, bears evidence of having had a serial number or~~
8 ~~personalized initials or inscription.~~

9 ~~(3) All personal property commonly sold by secondhand~~
10 ~~dealers which statistically is found through crime reports to the~~
11 ~~Attorney General to constitute a significant class of stolen goods.~~
12 ~~A list of such this personal property shall be supplied by the~~
13 ~~Attorney General to all local law enforcement agencies. Such~~
14 ~~The list shall be reviewed periodically by the Attorney General to~~
15 ~~insure that it addresses current problems with stolen goods.~~

16 ~~(e) As used in this article, "tangible personal property" does~~
17 ~~not include any new goods or merchandise purchased from a~~
18 ~~bona fide manufacturer or distributor or wholesaler of such new~~
19 ~~goods or merchandise by a secondhand dealer. For the purposes~~
20 ~~of this article, however, a secondhand dealer shall retain for one~~
21 ~~year from the date of purchase, and shall make available for~~
22 ~~inspection by any law enforcement officer, any receipt, invoice,~~
23 ~~bill of sale or other evidence of purchase of such new goods or~~
24 ~~merchandise.~~

25 ~~(d) As used in this article, "tangible personal property" does~~
26 ~~not include coins, monetized bullion, or commercial grade ingots~~
27 ~~of gold, silver, or other precious metals. "Commercial grade~~
28 ~~ingots" means 0.99 fine ingots of gold, silver, or platinum, or~~
29 ~~0.925 fine sterling silver art bars and medallions, provided that~~
30 ~~the ingots, art bars, and medallions are marked by the refiner or~~
31 ~~fabriator as to their assay fineness.~~

32 *SEC. 5. Section 21627.2 is added to the Business and*
33 *Professions Code, to read:*

34 *21627.2. As used in this article, "secondhand tangible*
35 *personal property" does not include any of the following:*

36 *(a) Chattel paper, documents of title, financial instruments,*
37 *and money securities.*

38 *(b) New goods or merchandise purchased by a secondhand,*
39 *coin, or business machine dealer or by a pawn broker from a*

1 *bona fide manufacturer, distributor, or wholesaler of those new*
2 *goods or merchandise.*

3 *(c) Coins, monetized bullion, or commercial grade ingots of*
4 *gold, silver, or other precious metals. "Commercial grade*
5 *ingots" means 0.99 fine ingots of gold, silver, or platinum, or*
6 *0.925 fine sterling silver art bars and medallions, if the ingots,*
7 *art bars, and medallions are marked by the refiner or fabricator*
8 *as to their assay fineness.*

9 *(d) A "business machine" as defined in Section 21628.5 that is*
10 *taken solely for repair and that is to be returned to the owner*
11 *immediately following its repair.*

12 *(e) Goods acquired from outside the United States or its*
13 *territories and possessions.*

14 *(f) Furniture, rugs, or used books.*

15 *SEC. 6. Section 21628 of the Business and Professions Code*
16 *is amended to read:*

17 *21628. Every (a) Unless exempt under Section 21627.2, all*
18 *secondhand tangible personal property that is acquired in the*
19 *United States of America by purchase, trade, or accepted for sale*
20 *on consignment or for auction by any secondhand dealer or coin*
21 *dealer described in Section 21626, or business machine dealer,*
22 *or by any pawnbroker as defined in Section 21000 of the*
23 *Financial Code, shall report be reported to the Department of*
24 *Justice. The report shall be transmitted daily, or on the first*
25 *working day after receipt or purchase of the property, on forms*
26 *either approved or provided at actual cost by the Department of*
27 *Justice; or by the electronic data reporting system described in*
28 *Section 21632. The report shall account for all secondhand*
29 *tangible personal property which he or she that the dealer or*
30 *pawnbroker has purchased, taken in trade, taken in pawn,*
31 *accepted for sale on consignment, or accepted for auctioning;.*

32 *(b) If a report of the acquisition of secondhand tangible*
33 *personal property is made other than by the electronic data*
34 *reporting system, the report shall be delivered to the chief of*
35 *police or to the sheriff of the local agency where the secondhand*
36 *dealer, coin dealer, or business machine dealer, or pawnbroker*
37 *is licensed to do business, in accordance with the provisions of*
38 *Sections 21630 and 21633 and subdivision (j) of this section. The*

39 *(c) Whether the report of the acquisition of secondhand*
40 *tangible personal property is made on a form approved by the*

Department of Justice or through the electronic data reporting system, every report shall be legible, and prepared in English; completed where applicable, and in full compliance with the provisions of Section 21628.1. The report shall include, but not be limited to, the following information:

(a)

(1) The name and current address of the intended seller or, trader, pledgor, or consignor of the property.

(b)

(2) The identification of the intended seller or, trader, pledgor, or consignor of the property. The identification of the seller or pledgor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:

(1) A passport of the United States.

(2) A driver's license issued by any state, or Canada.

(3) An identification card issued by any state.

(4) An identification card issued by the United States.

(5) A passport from any other country in addition to another item of identification bearing an address.

(c)

(3) A complete and reasonably accurate description of serialized the property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill. In all instances where the required information may be obtained by removal of a watchband, then the watchband shall be removed. The cost associated with opening the watch shall be borne by the pawnbroker, secondhand dealer, or customer complying with the requirements of Section 21628.1.

~~(d) A complete and reasonably accurate description of nonserialized property, including, but not limited to, the following: size, color, material, manufacturer's pattern name (when known), owner-applied numbers and personalized inscriptions and other identifying marks or symbols. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill. In all instances where the required information may be obtained by removal of a watchband, then the watchband shall be removed. The cost associated with opening the watch shall be borne by the pawnbroker, secondhand dealer, or customer.~~

~~(e)~~

~~(4) A certification by the intended seller or, trader, pledgor, or consignor that he or she is the owner of the property or has the authority of the owner to sell or, trade, pledge, or consign the property.~~

~~(f)~~

~~(5) A certification by the intended seller or, trader, pledgor, or consignor that he or she has not at the time of the sale, trade, pledge, or consignment, conveyed a right to, or granted a lien against, the property.~~

~~(6) A certification by the intended seller, trader, pledgor, or consignor that to his or her knowledge and belief the information is true and complete.~~

~~(g) A~~

~~(d) At the time of the acquisition, a legible fingerprint shall be taken from the intended seller or, trader, pledgor, as prescribed by the or consignor either affixed to the form approved by the Department of Justice or in an electronic format consistent with the requirements of the electronic data reporting system. If the fingerprint is affixed to a form either provided or approved by the Department of Justice, the fingerprint shall be maintained by the dealer for a period of three years from the date it was taken and shall be made available for inspection by any law enforcement officer or employee of the Department of Justice.~~

1 This requirement does not apply to a coin dealer, unless required
2 pursuant to local regulation.

3 ~~(h) When a secondhand dealer complies with all of the~~
4 ~~provisions of this section, he or she shall be deemed to have~~
5 ~~received from the seller or pledgor adequate evidence of~~
6 ~~authority to sell or pledge the property for all purposes included~~
7 ~~in this article, and Division 8 (commencing with Section 21000)~~
8 ~~of the Financial Code.~~

9 In enacting this subdivision, it is the intent of the Legislature
10 that its provisions shall not adversely affect the implementation
11 of, or prosecution under, any provision of the Penal Code.

12 ~~(i)~~

13 ~~(e) Any person who conducts business as a secondhand dealer~~
14 ~~at any gun show or event, as defined in Section 478.100 of Title~~
15 ~~27 of the Code of Federal Regulations, or its successor, outside~~
16 ~~the jurisdiction that issued the secondhand dealer license in~~
17 ~~accordance with subdivision (d) of Section 21641, and who~~
18 ~~reports in a manner other than via the electronic data reporting~~
19 ~~system under Section 21632, may be required to submit a~~
20 ~~duplicate of the transaction report prepared pursuant to this~~
21 ~~section to the local law enforcement agency where the gun show~~
22 ~~or event is conducted.~~

23 ~~(j) (1) The Department of Justice shall, in consultation with~~
24 ~~appropriate local law enforcement agencies, develop clear and~~
25 ~~comprehensive descriptive categories denoting tangible personal~~
26 ~~property subject to the reporting requirements of this section.~~
27 ~~These categories shall be incorporated by secondhand dealers~~
28 ~~and coin dealers described in Section 21626 for purposes of the~~
29 ~~reporting requirements set forth herein. Any required report shall~~
30 ~~be transmitted by electronic means. The Department of Justice~~
31 ~~and local law enforcement agencies, in consultation with~~
32 ~~representatives from the secondhand dealer and coin dealer~~
33 ~~businesses, shall develop a standard format to be used statewide~~
34 ~~to transmit this report electronically.~~

35 ~~(2) Twelve months after the format and the categories~~
36 ~~described in paragraph (1) have been developed, each~~
37 ~~secondhand dealer and coin dealer shall electronically report~~
38 ~~using this format the information required by this section under~~
39 ~~these reporting categories. Until that time, each secondhand~~
40 ~~dealer and coin dealer may either continue to report this~~

1 ~~information using existing forms and procedures or may begin~~
2 ~~electronically reporting this information under the reporting~~
3 ~~categories and using the format described in paragraph (1) as~~
4 ~~soon as each has been developed.~~

5 ~~(3) A coin dealer who engages in less than 10 transactions~~
6 ~~each week in which he or she has purchased, taken in trade, taken~~
7 ~~in pawn, accepted for sale or consignment, or accepted for~~
8 ~~auctioning tangible personal property, shall report the~~
9 ~~information required by this section under the reporting~~
10 ~~categories described in paragraph (1) on a form developed by the~~
11 ~~Attorney General that the coin dealer shall transmit each day by~~
12 ~~facsimile transmission or by mail to the chief of police or sheriff.~~
13 ~~A transaction shall consist of not more than one item. Nothing in~~
14 ~~this section shall prohibit up to 10 transactions with the same~~
15 ~~customer per week, provided that the cumulative total per week~~
16 ~~for all customers does not exceed 10 transactions. Until that form~~
17 ~~is developed, these coin dealers shall continue to report~~
18 ~~information required by this section using existing forms and~~
19 ~~procedures. If these transactions increase to 10 per week, the coin~~
20 ~~dealer shall electronically report using the format described in~~
21 ~~paragraph (1) the information required by this section beginning~~
22 ~~six months after his or her transactions exceed 10 per week or 12~~
23 ~~months after the format described in paragraph (1) has been~~
24 ~~developed, whichever occurs later.~~

25 ~~(4) For purposes of this subdivision, "item" shall mean any~~
26 ~~single physical article. However, with respect to a commonly~~
27 ~~accepted grouping of articles that are purchased as a set,~~
28 ~~including, but not limited to, a pair of earrings or place settings~~
29 ~~of china, silverware, or other tableware, "item" shall mean that~~
30 ~~commonly accepted grouping.~~

31 ~~(5) Nothing in this subdivision shall be construed as excepting~~
32 ~~a secondhand dealer from the fingerprinting requirement of~~
33 ~~subdivision (g).~~

34 *(f) The secondhand dealer or pawnbroker shall delineate the*
35 *transactions conducted at the gun show or event from the*
36 *transactions that occurred at his or her regular place of*
37 *business. The dealer or pawnbroker shall denote the transactions*
38 *that occurred during the gun show or event and list on the report*
39 *the name of the city, county, or city and county where the gun*
40 *show or event was conducted.*

(g) *On and after the date that the Attorney General certifies that the electronic data reporting system, described in Section 21632, is operational, every transaction report for the acquisition of tangible personal property required under this section shall be reported through that electronic data reporting system.*

SEC. 7. Section 21628.1 of the Business and Professions Code is repealed.

~~21628.1. Notwithstanding Section 21628, except for firearms, submission of transaction reports are not required to be submitted to the local law enforcement agency if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months, except when submission of the reports is specifically requested in writing by the local licensing authority.~~

SEC. 8. Section 21628.1 is added to the Business and Professions Code, to read:

21628.1. (a) When a secondhand dealer or coin dealer, as described in Section 21626, or business machine dealer, or a pawnbroker as defined in Section 21000 of the Financial Code, reports an acquisition of secondhand tangible personal property, as required by Section 21628, the dealer or pawnbroker shall comply with the following requirements in completing the report:

(1) The identification of the seller, trader, pledgor, or consignor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, if the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:

(A) A passport of the United States.

(B) A driver's license issued by any state or Canada.

(C) An identification card issued by any state.

(D) An identification card issued by the United States.

(E) A passport from any other country in addition to another item of identification bearing an address.

(2) The report shall provide a complete and reasonably accurate description of serialized property, including, but not limited to, the following: a serial number and other identifying

1 marks or symbols, owner-applied numbers, manufacturer's name
2 brand, and model name or number. A watch need not be
3 disassembled if special skill or special tools are required to
4 obtain the required information, unless specifically requested by
5 a peace officer. A special tool does not include a penknife,
6 caseknife, or similar instrument, and disassembling a watch with
7 a penknife, caseknife, or similar instrument does not constitute a
8 special skill. The watchband shall be removed if the required
9 information may be obtained by its removal. The cost associated
10 with opening the watch shall be borne by the pawnbroker,
11 dealer, or customer.

12 (3) The report shall provide a complete and reasonably
13 accurate description of nonserialized property, including, but not
14 limited to, the following: size, color, material, manufacturer's
15 pattern name (when known), owner-applied numbers and
16 personalized inscriptions, and other identifying marks or
17 symbols. A watch need not be disassembled if special skill or
18 special tools are required to obtain the required information,
19 unless specifically requested by a peace officer. A special tool
20 does not include a penknife, caseknife, or similar instrument, and
21 disassembling a watch with a penknife, caseknife, or similar
22 instrument, does not constitute a special skill. The watchband
23 shall be removed if the required information may be obtained by
24 its removal. The cost associated with opening the watch shall be
25 borne by the pawnbroker, dealer, or customer.

26 (b) Notwithstanding Section 21628, a dealer is not required to
27 submit a report of an acquisition of the same property from the
28 same customer if a report of the acquisition has been submitted
29 within the preceding 12 months, unless submission of the report
30 is specifically requested in writing by the local licensing
31 authority or the property is a firearm.

32 SEC. 9. Section 21628.3 is added to the Business and
33 Professions Code, to read:

34 21628.3. (a) When a secondhand dealer or coin dealer, as
35 described in Section 21626, or business machine dealer, or a
36 pawnbroker as defined in Section 21000 of the Financial Code,
37 complies with all of the provisions of Sections 21628 and
38 21628.1, he or she shall be deemed to have received from the
39 seller, trader, pledgor, or consignor adequate evidence of
40 authority to sell, pledge, trade, or accept for consignment or

1 *auction the property for all purposes included in this article and*
2 *in Division 8 (commencing with Section 21000) of the Financial*
3 *Code.*

4 *(b) It is the intent of the Legislature that the provisions of this*
5 *section shall not adversely affect the implementation of, or*
6 *prosecution under, any provision of the Penal Code, nor*
7 *compromise any right of privacy accorded to the secondhand or*
8 *coin consumer or the dealer, as described in Section 21626, or to*
9 *a business machine consumer or dealer, or to a pawnbroker, as*
10 *defined in Section 21000 of the Financial Code, under any state*
11 *or federal law.*

12 *(c) This article shall be construed liberally to effectuate the*
13 *legislative intent to continue a uniform, statewide,*
14 *state-administered program of regulation of persons and entities*
15 *whose business includes the buying, selling, trading, auctioning,*
16 *accepting for auction or for sale on consignment, or taking in*
17 *pawn, secondhand tangible personal property and to create and*
18 *to implement by January 1, 2008, a single, uniform, statewide*
19 *electronic data reporting system for the reporting of transactions*
20 *required by this article.*

21 *SEC. 10. Section 21628.6 is added to the Business and*
22 *Professions Code, to read:*

23 *21628.6. (a) The Attorney General shall maintain the*
24 *information reported pursuant to Sections 21628 and 21632.*
25 *Access to the information is restricted to state and local law*
26 *enforcement agencies and to the Department of Justice.*

27 *(b) The data transmitted to the Department of Justice through*
28 *the electronic data reporting system is available to any peace*
29 *officer when he or she has specific articulable facts causing the*
30 *officer to believe that any one of the following is occurring:*

31 *(1) A seller, trader, pledgor, consignor, or secondhand, coin,*
32 *or business machine dealer or pawnbroker is engaging in a*
33 *property crime.*

34 *(2) The seller, trader, pledgor, or consignor is evading*
35 *liability for sales taxes.*

36 *(3) The acquired secondhand tangible personal property was*
37 *previously reported to be stolen.*

38 *(c) The Department of Justice may promulgate regulations to*
39 *prevent the unauthorized use of the information contained in the*
40 *electronic data system or the use of the information for any*

1 *purpose inconsistent with the legislative intent expressed in this*
2 *article.*

3 *(d) Except as provided in Sections 21641 and 21642 and in*
4 *Sections 21300 and 21301 of the Financial Code, no fee, tax,*
5 *license, levy, or other assessment may be charged by the state or*
6 *any local agency against any secondhand, coin, or business*
7 *machine dealer, as defined in this article, or any pawnbroker, as*
8 *defined in Section 21000 of the Financial Code, for reporting the*
9 *acquisition of secondhand tangible personal property as required*
10 *by this article or for the purpose of implementing or maintaining*
11 *the electronic data transmission system or to cover the cost for*
12 *any state or local agency to access the electronic data reporting*
13 *system.*

14 *SEC. 11. Section 21630 of the Business and Professions Code*
15 *is amended to read:*

16 *21630. ~~If the transaction takes place within the territorial~~*
17 *~~limits of an incorporated city, the report~~ Until the date the*
18 *Attorney General certifies that the electronic data reporting*
19 *system, described in Section 21632, is operational, a report*
20 *required by this article shall be submitted to the police chief*
21 *executive of the city or his or her designee if the transaction*
22 *takes place within the territorial limits of an incorporated city. If*
23 *the transaction takes place outside the territorial limits of an*
24 *incorporated city, the report shall be submitted to the sheriff of*
25 *the county or his or her designee.*

26 *SEC. 12. Section 21631 of the Business and Professions Code*
27 *is amended to read:*

28 *21631. Notwithstanding any other provisions of law, all*
29 *secondhand tangible personal property that is found abandoned*
30 *in the shop of a pawnbroker, ~~secondhand dealer, or coin, or~~*
31 *~~business machine dealer, doing business under a California~~*
32 *~~secondhand dealer's license,~~ shall be reported as required under*
33 *~~subdivisions (c) and (d) of Section 21628, including any~~*
34 *~~additional information required by Section 21628 that is known~~*
35 *~~by the reporting person,~~ and shall be held as required under*
36 *Section 21636 ~~on forms as required under Section 21633.~~ If no*
37 *claim is made for the property for a period of 60 days after it is*
38 *reported, the pawnbroker, secondhand dealer, or coin dealer may*
39 *treat the property as property regularly acquired in the due course*
40 *of business.*

1 SEC. 13. Section 21632 is added to the Business and
2 Professions Code, to read:

3 21632. (a) On or before January 1, 2007, the Attorney
4 General shall, in consultation with appropriate local law
5 enforcement agencies and representatives of the dealers
6 described in Section 21626 and of pawnbrokers, as defined in
7 Section 21000 of the Financial Code, complete the following
8 duties:

9 (1) Develop clear and comprehensive descriptive categories
10 denoting secondhand tangible personal property subject to the
11 reporting requirements of Section 21628. These categories shall
12 be incorporated by a secondhand dealer or coin dealer described
13 in Section 21626 and by a business machine dealer, and by a
14 pawnbroker, as defined in Section 21000 of the Financial Code,
15 for purposes of the reporting requirements set forth in Section
16 21628 of this code and in Section 21028 of the Financial Code.

17 (2) Establish a standard format to be used statewide to
18 transmit the transaction report required by Section 21628
19 electronically via the electronic data reporting system.

20 (b) On or before January 1, 2007, the Attorney General shall
21 submit a report to the Legislature reporting the progress made in
22 implementing the provisions set forth in subdivision (a) and
23 setting forth an anticipated timeline for complete implementation
24 of the statewide electronic data reporting system, consistent with
25 the requirements set forth in this section.

26 (c) If sufficient funds have been collected, expenditure
27 authority has been authorized, and system development has been
28 completed, a uniform, statewide electronic data reporting system
29 shall be operational on or before January 1, 2008.

30 (d) (1) The electronic data reporting system shall be under
31 the direction of the Attorney General and shall be operated in a
32 manner consistent with the legislative intent of this article and
33 the provisions of Section 21628.6.

34 (2) The system shall electronically receive all transaction
35 reports required under Section 21628 from dealers described in
36 Section 21626 and from pawnbrokers, as defined in Section
37 21000 of the Financial Code.

38 (3) The electronic data reporting system shall effectively
39 interface with the appropriate automated systems within the

1 *Department of Justice to achieve the legislative intent expressed*
2 *in Section 21625.*

3 *(e) If all conditions for system development have been met, as*
4 *described in this section, the electronic data reporting system*
5 *shall receive all transaction reports required by Section 21628*
6 *by electronic means on or before January 1, 2009.*

7 *(f) Reporting requirements for the electronic data reporting*
8 *system shall supersede any local government's reporting*
9 *requirements.*

10 *SEC. 14. Section 21633 of the Business and Professions Code*
11 *is amended to read:*

12 21633. (a) (1) The report forms approved by the Department
13 of Justice shall consist of not less than an original and ~~two copies~~
14 *one copy*. The Department of Justice shall not require the report
15 form to consist of more than an original and ~~two copies~~ *one copy*
16 when the forms are obtained from a source other than the
17 department. A local law enforcement agency may request
18 secondhand, coin, or business machine dealers or pawnbrokers,
19 as defined in Section 21000 of the Financial Code, within its
20 jurisdiction to use a report form consisting of more than an
21 original and ~~two copies~~ *one copy*. However, each secondhand
22 dealer or pawnbroker or group of dealers or pawnbrokers shall
23 be required only to use a form consisting of an original and ~~two~~
24 ~~copies~~ *one copy* when the dealer or pawnbroker does not use a
25 form obtained from the Department of Justice.

26 (2) The Department of Justice shall allow the use of forms
27 ~~which~~ *that* are compatible with computerization. The original ~~and~~
28 ~~the duplicate copy~~ shall be submitted by the secondhand dealer
29 or pawnbroker in accordance with the provisions of Sections
30 21628 and 21630. One copy shall be retained by the secondhand
31 dealer or pawnbroker in his or her place of business for a period
32 of three years and shall be made available for inspection by any
33 law enforcement officer.

34 (b) *This section shall remain in effect only until the date the*
35 *Attorney General certifies that the electronic data reporting*
36 *system, described in Section 21632, is operational. The section*
37 *shall be repealed on January 1 of the immediately following year*
38 *unless a later enacted statute, that is enacted before that date,*
39 *deletes or extends that repeal date.*

1 *SEC. 15. Section 21634 of the Business and Professions Code*
2 *is repealed.*

3 ~~21634. The chief of police or the sheriff who receives a report~~
4 ~~on a form filed pursuant to the provisions of this article shall~~
5 ~~daily submit the original to the Department of Justice.~~

6 *SEC. 16. Section 21635 is added to the Business and*
7 *Professions Code, to read:*

8 *21635. A secondhand dealer shall retain for one year from*
9 *the date of purchase and shall make available for inspection by*
10 *any law enforcement officer, any receipt, invoice, bill of sale, or*
11 *other evidence of purchase of new goods or merchandise*
12 *purchased from a bona fide manufacturer, distributor, or*
13 *wholesaler of those new goods or merchandise.*

14 *SEC. 17. Section 21636 of the Business and Professions Code*
15 *is amended to read:*

16 21636. (a) Every secondhanddealer and, coin, and business
17 machine dealer and every pawnbroker, as defined in Section
18 21000 of the Financial Code, shall retain in his or her possession
19 for a period of 30 days all *secondhand* tangible personal property
20 reported under Sections 21628, 21629, and 21630, *other than*
21 *coins and coin collections*. The 30-day holding period with
22 respect to this *secondhand* tangible personal property shall
23 commence with the date the report of its acquisition was made to
24 *the electronic reporting system or to the chief of police or to the*
25 sheriff by the secondhand dealer and coin dealer. The chief of
26 police or the sheriff may for good cause, as specified by the
27 Department of Justice, authorize prior disposition of any property
28 described in a specific report, ~~provided that if~~ a secondhand dealer
29 who disposes of tangible personal property pursuant to that
30 authorizations ~~shall report~~ *reports the sale thereof of the property to*
31 the chief of police or the sheriff.

32 (b) During the 30-day holding period specified in subdivision
33 (a) every secondhand dealer and coin dealer shall produce any
34 *secondhand* tangible personal property reported under Sections
35 21628, 21629, and 21630 for inspection by any peace officer or
36 employee designated by the chief of police or sheriff.

37 (c) Property subject to inspection as specified in subdivision
38 (b) and property held in pawn, which is stored off the business
39 premises of the licensee, shall, upon request for inspection, be

1 produced at the licensee's business premises within one business
2 day of a request.

3 (d) Any person who conducts business as a secondhand dealer
4 at any gun show or event, as defined in Section 478.100 of Title
5 27 of the Code of Federal Regulations, or its successor, outside
6 the jurisdiction that issued the secondhand dealer license in
7 accordance with subdivision (d) of Section 21641, may be
8 required to submit for inspection, as specified in subdivision (b),
9 any firearm acquired at a gun show or event within 48 hours of
10 the request of the local law enforcement agency in the
11 jurisdiction where the gun show or event was conducted at a
12 location specified by the local law enforcement agency.

13 (e) (1) *This section shall become inoperative upon the*
14 *certification by the Attorney General that the electronic data*
15 *reporting system provided for in Section 21632 is operational.*

16 (2) *This section shall be repealed on the first January 1*
17 *following the date that this section became inoperative pursuant*
18 *to paragraph (1).*

19 SEC. 18. *Section 21636 is added to the Business and*
20 *Professions Code, to read:*

21 21636. (a) *Every secondhand, coin, and business machine*
22 *dealer, and every pawnbroker as defined in Section 21000 of the*
23 *Financial Code, shall retain in his or her possession for a period*
24 *of 10 days all secondhand tangible personal property reported*
25 *under Sections 21628, 21629, and 21630, other than coins and*
26 *coin collections. The 10-day holding period with respect to this*
27 *secondhand tangible personal property shall commence with the*
28 *date the report of its acquisition was transmitted pursuant to the*
29 *electronic data transmission system to the department of Justice*
30 *by the dealer or broker.*

31 (b) *During the 30-day holding period specified in subdivision*
32 *(a) every secondhand, coin, or business machine dealer, and*
33 *every pawnbroker, shall produce any secondhand tangible*
34 *personal property reported under Sections 21628, 21629, and*
35 *21630 for inspection by any peace officer or employee*
36 *designated by the chief of police or sheriff.*

37 (c) *Property subject to inspection as specified in subdivision*
38 *(b) and property held in pawn, which is stored off the business*
39 *premises of the licensee, shall, upon request for inspection, be*

1 *produced at the licensee's business premises within one business*
2 *day of a request.*

3 *(d) Any person who conducts business as a secondhand dealer*
4 *at any gun show or event, as defined in Section 478.100 of Title*
5 *27 of the Code of Federal Regulations, or its successor, outside*
6 *the jurisdiction that issued the secondhand dealer license in*
7 *accordance with subdivision (d) of Section 21641, may be*
8 *required to submit for inspection, as specified in subdivision (b),*
9 *any firearm acquired at a gun show or event within 48 hours of*
10 *the request of the local law enforcement agency in the*
11 *jurisdiction where the gun show or event was conducted at a*
12 *location specified by the local law enforcement agency.*

13 *(e) This section shall become operative upon the certification*
14 *by the Attorney General that the electronic data reporting system*
15 *provided for in Section 21632 is operational.*

16 *SEC. 19. Section 21636.4 is added to the Business and*
17 *Professions Code, to read:*

18 *21636.4. A secondhand, coin, or business machine dealer and*
19 *a pawnbroker, as defined in Section 21000 of the Financial*
20 *Code, shall not buy, sell, trade, auction, accept for auction or*
21 *accept for sale on consignment, or take in pawn any item of*
22 *tangible personal property that possesses an altered or*
23 *obliterated serial number.*

24 *SEC. 20. Section 21636.7 is added to the Business and*
25 *Professions Code, to read:*

26 *21636.7. Notwithstanding any other provision of law, a*
27 *person who advertises or displays a sign or card or other device*
28 *indicating to the public that he or she is a secondhand dealer,*
29 *coin dealer, or business machine dealer, or who causes his or*
30 *her name or business name to be included in a classified*
31 *advertisement or directory under a classification for a*
32 *secondhand dealer, coin dealer, or business machine dealer, is*
33 *subject to the provisions of this article.*

34 *SEC. 21. Section 21636.8 is added to the Business and*
35 *Professions Code, to read:*

36 *21636.8. (a) It is a misdemeanor for any person to advertise*
37 *as a secondhand dealer or coin dealer, as described in Section*
38 *21626, or a business machine dealer unless that person holds a*
39 *valid license as that type of dealer, under this article.*

1 (b) “Advertise” as used in this section includes, but is not
2 limited to, the solicitation or invitation to deal or to trade in
3 secondhand tangible personal property regardless of the value of
4 the secondhand tangible personal property, by means of the
5 issuance of a card, sign, or device to any person; the causing,
6 permitting, or allowing of any sign or marking on or in any
7 building or structure or in any newspaper, magazine, or by
8 airwave or any electronic transmission, or in any directory under
9 a listing for a secondhand dealer, coin dealer, or business
10 machine dealer.

11 (c) A violation of this section is punishable as set forth in
12 Section 21645.

13 SEC. 22. Section 21640 of the Business and Professions Code
14 is amended to read:

15 21640. It is unlawful for any person to engage in the business
16 of a secondhand dealer or coin dealer, as defined in Section
17 21626, or a business machine dealer, without being licensed as
18 provided in this article.

19 SEC. 23. Section 21641 of the Business and Professions Code
20 is amended to read:

21 21641. (a) The chief of police, the sheriff or, where
22 appropriate, the police commission, shall accept an application
23 for and grant a license permitting the licensee to engage in the
24 business of a secondhand dealer or coin dealer, as defined in
25 Section 21626, or a business machine dealer, to an applicant
26 who has not been convicted of an attempt to receive stolen
27 property or any other offense involving stolen property. Prior to
28 the granting of a license, the licensing authority shall submit the
29 application to the Department of Justice. If the Department of
30 Justice does not comment on the application within 30 days
31 thereafter, the licensing authority may grant the applicant a
32 license. *The licensing authority shall not grant the license until*
33 *the Department of Justice has completed a criminal offender*
34 *record information background check on the applicant.* All
35 forms for application and licensure, and license renewal, shall be
36 prescribed and provided by the Department of Justice. A fee may
37 be charged to the applicant as specified in subdivision (e) by the
38 Department of Justice and in subdivision (f) by the local licensing
39 authority for processing the initial—~~license~~ application. *An*
40 *additional fee shall be charged by the Department of Justice for*

1 *processing each applicant's fingerprint card and for completing*
2 *the criminal offender record information background check*
3 *pursuant to subdivision (i).*

4 (b) For the purposes of this section, "convicted" means a plea
5 or verdict of guilty or a conviction following a plea of nolo
6 contendere.

7 (c) Notwithstanding subdivisions (a) and (b), no person shall
8 be denied a secondhand dealer's license solely on the grounds
9 that he or she violated any provision contained in ~~Article 4~~
10 ~~(commencing with Section 21625)~~ *this article* or in Article 5
11 (commencing with Section 21650) of this chapter, or any
12 provision contained in Chapter 2 (commencing with Section
13 21200) of Division 8 of the Financial Code, unless the violation
14 demonstrates a pattern of conduct.

15 (d) Any person licensed as a firearms dealer pursuant to
16 Section 12071 of the Penal Code, who is conducting business at
17 gun shows or events pursuant to subparagraph (B) of paragraph
18 (1) of subdivision (b) of Section 12071 of the Penal Code, and
19 who has a valid secondhand dealer license granted by the
20 appropriate local authorities in the jurisdiction where the firearms
21 dealer license has been granted, shall be authorized to conduct
22 business as a secondhand dealer at any gun show or event, as
23 defined in Section 478.100 of Title 27 of the Code of Federal
24 Regulations, or its successor, without regard to the jurisdiction
25 within this state that issued the secondhand dealer license
26 pursuant to subdivision (a) of this section. No additional fees or
27 separate secondhand dealer license shall be required by any
28 agency having jurisdiction over the locality where the gun show
29 or event is conducted. However, the person shall otherwise be
30 subject to, and comply with, the requirements of this article when
31 he or she acts as a secondhand dealer at the gun show or event to
32 the same extent as if he or she were licensed as a secondhand
33 dealer in the jurisdiction in which the gun show or event is being
34 conducted.

35 (e) *Each applicant for a license described in this section shall*
36 *pay an initial processing fee of two hundred twenty-five dollars*
37 *(\$225) to cover the actual costs of processing the application.*
38 *One hundred dollars (\$100) of the two hundred twenty-five*
39 *dollars (\$225) shall be paid directly to the Department of Justice*
40 *as a license issuance fee.*

1 (f) An additional fee, not to exceed fifty dollars (\$50), may be
2 charged by the local licensing authority to cover the cost of
3 licensing enforcement. This fee shall be paid directly to the local
4 licensing authority.

5 (g) All fees described in subdivision (e) shall be deposited into
6 the Electronic Data Reporting System Fund, which is hereby
7 established within the Department of Justice. The revenue in the
8 fund is continuously appropriated to the Department of Justice
9 for the sole purpose of implementing and maintaining the
10 electronic data reporting system described in Section 21632,
11 including all actual and reasonable costs related to establishing,
12 maintaining, staffing, and using the electronic reporting system.
13 The Department of Justice shall not use this revenue for any
14 other purpose or to fund any other program or agency.

15 (h) The fees described in subdivisions (e) and (f) shall be set
16 and assessed at the same rate as the fee set and assessed against
17 a pawnbroker applicant pursuant to subdivisions (d) and (e) of
18 Section 21300 of the Financial Code.

19 (i) The Department of Justice shall conduct a criminal
20 offender record information background check on each business
21 owner, franchise holder, partner, or corporate representative
22 applying for a license under this article. Each applicant shall be
23 assessed a fee of thirty-two dollars (\$32) to cover the cost of the
24 criminal offender record information background check. This fee
25 shall be in addition to any other fee required under this section
26 and the applicant shall pay this fee to the local licensing
27 authority who shall forward the fee to the Department of Justice.
28 The fee shall be deposited into the Electronic Data Reporting
29 System Fund.

30 (j) The amount of the fees described in subdivisions (e) and (i)
31 shall increase at a rate not to exceed the legislatively approved
32 annual cost-of-living adjustment for the budget of the
33 Department of Justice.

34 SEC. 24. Section 21642 of the Business and Professions Code
35 is amended to read:

36 21642. (a) A license granted pursuant to Section 21641 shall
37 be renewable the second year from the date of issue, and every
38 other year thereafter, upon the filing of a renewal application and
39 the payment of a license renewal fee ~~specified by the licensing~~
40 ~~authority. The Department of Justice may also charge a fee of not~~

~~more than twelve dollars (\$12) but not to exceed the actual processing costs of the department. After the department establishes a fee sufficient to reimburse the department for processing costs, the~~ *in the amount of two hundred twenty-five dollars (\$225). The fee shall be paid to the Department of Justice. The amount of the fee-charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The local licensing authority shall advise the applicant to make his or her check or money order payable to the Department of Justice and that authority shall collect the fee and transmit the fee and a copy of the renewed license to the Department of Justice.*

(b) The license shall be subject to forfeiture by the licensing authority, and the licensee's activities as a secondhand dealer shall be subject to being enjoined pursuant to Section 21646 for breach of any of the following conditions:

(1) The business shall be carried on only at the location designated on the license. The license shall designate all locations where property belonging to the business is stored. Property of the business may be stored at locations not designated on the license only with the written consent of the local licensing authority.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises in plain view of the public.

(3) The licensee shall not engage in any act~~which~~ *that* the licensee knows to be in violation of this article.

(4) The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action~~which~~ *that* the chief of police, the sheriff or, where appropriate, the police commission, is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no person shall have his or her renewal application for a secondhand dealer's license denied, nor shall his or her secondhand dealer's license be forfeited solely on the grounds that he or she violated any provision contained in ~~Article 4 (commencing with Section 21625)~~ *this article* or in Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

(d) *All fees described in subdivision (a) shall be deposited into the Electronic Data Reporting System Fund as described in Section 21641.*

SEC. 25. *Section 21645 of the Business and Professions Code is amended to read:*

21645. (a) A violation of any provision of this article under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor *and is* punishable as follows:

~~(a)~~

(1) For the first offense, a fine of up to one thousand five hundred dollars (\$1,500) or imprisonment in the county jail up to two months, or both.

~~(b)~~

(2) For the second offense, a fine of up to five thousand dollars (\$5,000) or imprisonment in the county jail up to four months, or both.

~~(c)~~

(3) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars (\$25,000) or imprisonment in the county jail up to six months, or both.

(b) *A district attorney or city attorney may bring a civil action for the violation of any provision of this article. The court may assess a civil penalty in the action.*

(c) *All civil penalties, forfeited bail amounts, and fines received by the court pursuant to this section shall be deposited with the county treasurer in the county in which the court is situated.*

SEC. 26. *Section 21647 of the Business and Professions Code is amended to read:*

21647. (a) Whenever any peace officer has probable cause to believe that property, except coins, monetized bullion, or “commercial grade ingots” as defined in subdivision ~~(d)~~ (c) of Section ~~21627~~ 21627.2, in the possession of a pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* is stolen, the peace officer may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* a written notice at the time the hold is placed, describing the item or items to be held. During that period the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. A pawnbroker, secondhand ~~property~~ dealer, ~~or~~ coin dealer, *or business machine dealer* shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer*, whether or not the property has been placed on hold, is required by a peace officer in a criminal investigation, the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to the peace officer upon the request of any peace officer.

(c) Whenever a law enforcement agency has knowledge that property in the possession of a pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* has been reported as lost or stolen, the law enforcement agency shall notify in writing the person who reported the property as lost or stolen of the following:

(1) The name, address, and telephone number of the pawnbroker, secondhand dealer, ~~or~~ coin dealer, *or business machine dealer* who reported the acquisition of the property.

(2) That the law neither requires nor prohibits payment of a fee or any other condition in return for the surrender of the property, except that when the person who reported the property

1 lost or stolen does not choose to participate in the prosecution of
2 an identified alleged thief, the person shall pay the pawnbroker,
3 secondhand dealer,~~or~~ coin dealer, *or business machine dealer*
4 the “out-of-pocket” expenses paid in the acquisition of the
5 property in return for the surrender of the property.

6 (3) That if the person who reported the property as lost or
7 stolen takes no action to recover the property from the
8 pawnbroker, secondhand dealer,~~or~~ coin dealer, *or business*
9 *machine dealer* within 60 days of the mailing of the notice, the
10 pawnbroker, secondhand dealer,~~or~~ coin dealer, *or business*
11 *machine dealer* may treat the property as other property received
12 in the ordinary course of business. During the 60-day notice
13 period, the pawnbroker, secondhand dealer,~~or~~ coin dealer, *or*
14 *business machine dealer* may not release the property to any
15 other person.

16 (4) That a copy of the notice,~~with from which~~ the address of
17 the person who reported the property as lost or stolen ~~deleted~~ *has*
18 *been removed*, will be mailed to the pawnbroker, secondhand
19 dealer,~~or~~ coin dealer, *or business machine dealer* who is in
20 possession of the property.

21 (d) When property that is in the possession of a pawnbroker,
22 secondhand dealer,~~or~~ coin dealer, *or business machine dealer* is
23 subject to a hold as provided in subdivision (a), and the property
24 is no longer required for the purpose of a criminal investigation,
25 the law enforcement agency that placed the hold on the property
26 shall release the hold on the property. When the law enforcement
27 agency has knowledge that the property has been reported lost or
28 stolen, the law enforcement agency shall then make notification
29 to the person who reported the property as lost or stolen pursuant
30 to subdivision (c).

31 (e) If a pledgor seeks to redeem property that is subject to a
32 hold, the pawnbroker shall advise the pledgor of the name of the
33 peace officer who placed the hold on the property and the name
34 of the law enforcement agency of which the officer is a member.
35 If the property is not required to be held pursuant to a criminal
36 prosecution the hold shall be released.

37 (f) Whenever information regarding allegedly lost or stolen
38 property is entered into the Department of Justice automated
39 property system or automated firearms system, and the property
40 is thereafter identified and found to be in the possession of a

1 pawnbroker, secondhand dealer,~~or~~ coin dealer, *or business*
2 *machine dealer* and the property is thereafter placed on a hold
3 pursuant to this section and the hold, including any additional
4 hold, is allowed to lapse, or 60 days elapse following the delivery
5 of the notice required to be given by this section to the person
6 who reported the property to be lost or stolen without a claim
7 being made by that person, whichever is later, the pawnbroker,
8 secondhand dealer,~~or~~ coin dealer, *or business machine dealer*
9 may mail under a Certificate of Mailing issued by the United
10 States Post Office, addressed to the law enforcement agency that
11 placed the property on hold, a written request to delete the
12 property listing from the Department of Justice automated
13 property system or automated firearms system, as is applicable.
14 Within 30 days after the request has been mailed, the law
15 enforcement agency shall either cause the property listing to be
16 deleted as requested or place a hold on the property. If no law
17 enforcement agency takes any further action with respect to the
18 property within 45 days after the mailing of the request, the
19 pawnbroker, secondhand dealer,~~or~~ coin dealer, *or business*
20 *machine dealer* may presume that the property listing has been
21 deleted as requested and may thereafter deal with the property
22 accordingly, and shall not be subject to liability arising from the
23 failure of the removal of the property listing from the Department
24 of Justice automated property system or automated firearms
25 system.

26 ~~(g) Nothing in this section shall be construed to alter the~~
27 ~~authority of a peace officer to seize property pursuant to any~~
28 ~~other provision of statutory or case law. Notwithstanding Chapter~~
29 ~~12 (commencing with Section 1407) of Title 10 of Part 2 of the~~
30 ~~Penal Code, if a peace officer seizes tangible personal property~~
31 ~~from a secondhand, coin, or business machine dealer or a~~
32 ~~pawnbroker and does not place the item on a hold pursuant to~~
33 ~~this section, the property shall only be disposed of pursuant to~~
34 ~~Section 21206.8 of the Financial Code.~~

35 (h) A peace officer seizing or causing a hold to be placed on
36 property in the possession of a pawnbroker, secondhand dealer,
37 coin dealer, or business machine dealer shall do so only to
38 secure the property's use for a criminal investigation and shall
39 not seize or cause a hold provided for under this section to be

1 placed on the property for the purpose of returning the property
2 to the person who has reported the property stolen.

3 (i) Regardless of the method or manner in which an item is
4 seized from a secondhand, coin, or business machine dealer or a
5 pawnbroker, a receipt conforming to the requirements of Section
6 21206.7 of the Financial Code shall be left with the dealer or
7 pawnbroker from whom the property was seized.

8 SEC. 27. Section 21648 is added to the Business and
9 Professions Code, to read:

10 21648. The provisions of this article shall not apply to
11 secondhand, coin, and business machine dealers that reside in
12 another state and that enter California for the purpose of
13 attending a trade show.

14 SEC. 28. Section 21208 of the Financial Code is amended to
15 read:

16 21208. (a) Every pawnbroker shall report daily or on the first
17 working day after receipt or purchase, ~~all descriptions of, all new~~
18 ~~or used pledged property received in pledge or purchased as~~
19 ~~tangible personal property~~, as defined in Section ~~21627 of the~~
20 ~~Business and Professions Code 21002~~, in whatever quantity
21 received, ~~including property purchased as tangible personal~~
22 ~~property at wholesale, tangible personal property taken in for sale~~
23 ~~or possessed on consignment for sale, and tangible personal~~
24 ~~property taken in trade~~. The report shall be made in compliance
25 with Article 4 (commencing with Section 21625) of Chapter 9 of
26 Division 8 of the Business and Professions Code and shall not be
27 subject to any requirements other than those set forth for
28 secondhand dealers and coin dealers, as defined in Section
29 21626 of the Business and Professions Code, and business
30 machine dealers, as described in Section 21628.5 of the Business
31 and Professions Code.

32 (b) If the transaction took place within the territorial limits of
33 an incorporated city, the report shall be submitted to the police
34 chief executive of the city or his or her designee, by mail unless
35 otherwise agreed upon by the pawnbroker and the police chief
36 executive or his or her designee. If the transaction took place
37 outside the territorial limits of an incorporated city, the report
38 shall be submitted to the sheriff of the county, or his or her
39 designee, by mail unless otherwise agreed upon by the
40 pawnbroker and the sheriff or his or her designee. All reports

1 shall be on forms approved or provided at actual cost by the
2 Department of Justice. ~~The police chief executive or sheriff who~~
3 ~~receives a report on a form filed pursuant to the provisions of this~~
4 ~~section shall daily submit a legible copy of the transactions to the~~
5 ~~Department of Justice.~~

6 *(c) This section shall become inoperative on the date the*
7 *Attorney General certifies that the electronic data reporting*
8 *system, described in Section 21632 of the Business and*
9 *Professions Code, is operational. This section shall be repealed*
10 *on January 1 of the immediately following year unless a later*
11 *enacted statute, that is enacted before that date, deletes or*
12 *extends that date.*

13 SEC. 29. Section 21208 is added to the Financial Code, to
14 read:

15 21208. (a) Every pawnbroker shall report daily or on the
16 first working day after receipt, all new or used pledged property,
17 as defined in Section 21002, in whatever quantity received. The
18 report shall be made in compliance with the electronic data
19 reporting system described in Section 21632 of the Business and
20 Professions Code and shall not be subject to any requirements
21 other than those set forth for secondhand dealers and coin
22 dealers, as defined in Section 21626 of the Business and
23 Professions Code, and business machine dealers, as described in
24 Section 21628.5 of the Business and Professions Code.

25 (b) This section shall become operative on the date the
26 Attorney General certifies that the electronic data reporting
27 system, described in Section 21632, of the Business and
28 Professions Code is operational.

29 SEC. 30. Section 21300 of the Financial Code is amended to
30 read:

31 21300. (a) The chief of police, the sheriff, or, where
32 appropriate, the police commission, shall accept an application
33 for and grant a license permitting the licensee to engage in the
34 business of pawnbroker, as defined in Section 21000, at the
35 address indicated on the application, to an applicant who has
36 complied with the requirements of Sections 21303, 21304, and
37 21305 and has not been convicted of an attempt to receive stolen
38 property or any other offense involving stolen property. Prior to
39 the granting of a license, the licensing authority shall submit the
40 application to the Department of Justice. If the Department of

1 Justice does not comment on the application within 30 days
2 thereafter, the licensing authority shall grant the applicant a
3 license. *The licensing authority shall not grant the license until*
4 *the Department of Justice has completed a criminal offender*
5 *record information background check on the applicant.* All
6 forms for application and licensure, and license renewal, shall be
7 prescribed and provided by the Department of Justice. ~~A fee not~~
8 ~~to exceed the actual processing costs to the Department of Justice~~
9 ~~and the chief of police, the sheriff, or where appropriate, the~~
10 ~~police commission may be charged to the applicant for~~
11 ~~processing the initial license application.~~ *A fee may be charged to*
12 *the applicant as specified in subdivision (d) by the Department of*
13 *Justice and in subdivision (e) by the local licensing authority for*
14 *processing the initial application. An additional fee shall be*
15 *charged by Department of Justice for processing the applicant's*
16 *fingerprint card for the criminal offender record information*
17 *background check pursuant to subdivision (h).*

18 (b) For the purposes of this section, “convicted” means a plea
19 or verdict of guilty or a conviction following a plea of nolo
20 contendere.

21 (c) Notwithstanding subdivisions (a) and (b), no person shall
22 be denied a pawnbroker’s license solely on the grounds that he or
23 she violated any provision contained in Chapter 1 (commencing
24 with Section 21000) or Chapter 2 (commencing with Section
25 21200) of this division or Article 4 (commencing with Section
26 21625) or Article 5 (commencing with Section 21650) of Chapter
27 9 of Division 8 of the Business and Professions Code unless the
28 violation demonstrates a pattern of conduct.

29 (d) *Each applicant for a license described in this section shall*
30 *pay an initial processing fee of two hundred twenty-five dollars*
31 *(\$225) to cover the actual costs of processing the application.*
32 *One hundred dollars (\$100) of the two hundred twenty-five*
33 *dollars (\$225) shall be paid directly to the Department of Justice*
34 *as a license issuance fee.*

35 (e) *An additional fee, not to exceed fifty dollars (\$50), may be*
36 *charged by the local licensing authority to cover the cost of*
37 *licensing enforcement. This fee shall be paid directly to the local*
38 *licensing authority.*

39 (f) *All fees described in subdivision (d) shall be deposited into*
40 *the Electronic Data Reporting System Fund, which is established*

1 pursuant to Section 21641 of the Business and Professions Code.
 2 The revenue in the fund is continuously appropriated to the
 3 Department of Justice for the sole purpose of implementing and
 4 maintaining the electronic data reporting system described in
 5 Section 21632 of the Business and Professions Code, as
 6 described in Section 21641 of the Business and Professions
 7 Code. The Department of Justice shall not use this revenue for
 8 any other purpose or to fund any other program or agency.

9 (g) The fees described in subdivisions (d) and (e) shall be set
 10 and assessed at the same rate as the fee set and assessed against
 11 a secondhand, coin, or business machine dealer applicant
 12 pursuant to subdivisions (e) and (f) of Section 21641 of the
 13 Business and Professions Code.

14 (h) The Department of Justice shall conduct a criminal
 15 offender record information background check on each business
 16 owner, franchise holder, partner, or corporate representative
 17 applying for a license under this chapter. Each applicant shall be
 18 assessed a fee of thirty-two dollars (\$32) to cover the cost of the
 19 criminal offender record information background check. This fee
 20 shall be in addition to any other fee required under this section
 21 and the applicant shall pay this fee to the local licensing
 22 authority who shall forward the fee to the Department of Justice.
 23 The fee shall be deposited into the Electronic Data Reporting
 24 System Fund.

25 (i) The amount of the fees described in subdivisions (d) and (h)
 26 shall increase at a rate not to exceed the legislatively approved
 27 annual cost-of-living adjustment for the budget of the
 28 Department of Justice.

29 SEC. 31. Section 21300.1 of the Financial Code is repealed.

30 ~~21300.1. It is unlawful for any person who is not duly~~
 31 ~~licensed under this section to act as a pawnbroker or represent~~
 32 ~~himself, herself, or a business entity to be a pawnbroker or a~~
 33 ~~pawnbrokerage business entity.~~

34 SEC. 32. Section 21301 of the Financial Code is amended to
 35 read:

36 21301. (a) A license granted pursuant to Section 21300 shall
 37 be renewable the second year from the date of issue, and every
 38 other year thereafter, upon the filing of a renewal application, *the*
 39 *payment of the renewal fee*, and compliance with the
 40 requirements of Section 21303. The Department of Justice ~~and~~

1 ~~the chief of police, the sheriff, or, where appropriate, the police~~
2 ~~commission~~ may charge a fee *in the amount of two hundred*
3 *twenty-five dollars (\$225)* for the license renewal ~~not to exceed~~
4 ~~the actual processing costs~~. *The amount of this fee shall increase*
5 *at a rate not to exceed the legislatively approved annual*
6 *cost-of-living adjustment for the department's budget*. The local
7 licensing authority shall *advise the applicant to make his or her*
8 *check or money order payable to the Department of Justice and*
9 *that authority shall then collect the fee and transmit the fee and a*
10 *copy of the renewed license to the Department of Justice*.

11 (b) The license shall be subject to forfeiture by the licensing
12 authority, and the licensee's activities as a pawnbroker shall be
13 subject to being enjoined pursuant to Section 21302, for breach
14 of any of the following conditions:

15 (1) The business shall be carried on only at the location
16 designated on the license. The license shall designate all
17 locations where property belonging to the business is stored.
18 Property of the business may be stored at locations not
19 designated on the license only with the written consent of the
20 local licensing authority.

21 (2) The license or a copy thereof, certified by the licensing
22 authority, shall be displayed on the premises in plain view of the
23 public.

24 (3) The licensee shall not engage in any act that the licensee
25 knows to be in violation of this article.

26 (4) The licensee shall not be convicted of an attempt to receive
27 stolen property or other offense involving stolen property. For
28 the purposes of this paragraph, "convicted" means a plea or
29 verdict of guilty or a conviction following a plea of nolo
30 contendere. Any action that the chief of police, the sheriff, or,
31 where appropriate, the police commission, is permitted to take
32 following that conviction may be taken when the time for appeal
33 has elapsed, the judgment of conviction has been affirmed on
34 appeal, or an order granting probation is made suspending the
35 imposition of sentence, irrespective of a subsequent order under
36 Section 1203.4 of the Penal Code.

37 (c) Notwithstanding subdivisions (a) and (b), no renewal
38 application for a pawnbroker's license may be denied, nor may
39 his or her pawnbroker's license be forfeited, solely on the
40 grounds that the applicant violated any provision contained in

Chapter 1 (commencing with Section 21000), Chapter 2 (commencing with Section 21200) of this division, or Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of Chapter 9 of Division 8, of the Business and Professions Code unless the violation demonstrates a pattern of conduct.

(d) All fees described in subdivision (a) shall be deposited into the Electronic Data Reporting System Fund established pursuant to Section 21641 of the Business and Professions Code. The revenue in the fund is continuously appropriated to the Department of Justice for the sole purpose of implementing and maintaining the electronic data reporting system described in Section 21632 of the Business and Professions Code and may not be used by the Department of Justice for any other purpose or to fund any other program or agency.

SEC. 33. Section 21307 of the Financial Code is amended to read:

21307. (a) Except as otherwise specifically provided, the violation of any provision of this—chapter division under circumstances where a person knows or should have known that a violation was being committed is a misdemeanor; and is punishable as follows:

(1) For the first offense, a fine of up to one thousand five hundred dollars (\$1,500) or imprisonment in a county jail up to two months, or both.

(2) For the second offense, a fine of up to five thousand dollars (\$5,000) or imprisonment in a county jail up to four months, or both.

(3) For the third, and any subsequent offense, a fine of up to twenty-five thousand dollars (\$25,000) or imprisonment in a county jail up to six months, or both.

(b) A district attorney or city attorney may bring a civil action for the violation of any provision of this division, and a court may assess a civil penalty in the action. All civil penalties, forfeited bail amounts, and fines received by a court pursuant to this section shall be deposited with the county treasurer of the county in which the court is situated.

SEC. 34. Section 21308 is added to the Financial Code, to read:

1 21308. (a) *It is unlawful for any person who is not duly*
2 *licensed under this chapter to act as a pawnbroker or to*
3 *represent himself or herself to be a pawnbroker or for a business*
4 *entity to represent itself to be a pawnbrokerage.*

5 (b) *Notwithstanding the exemptions described in Article 2*
6 *(commencing with Section 21050) of Chapter 1, it is unlawful for*
7 *a person to advertise as a pawnbroker unless he or she holds a*
8 *valid license under this chapter. "Advertise," as used in this*
9 *section, includes, but is not limited to, the issuance of a card,*
10 *sign, or device to any person; the causing, permitting, or*
11 *allowing of any sign or marking on or in any building or*
12 *structure or in any newspaper, magazine, or by airwave or*
13 *electronic transmission or in any classified advertisement or*
14 *directory under a listing for pawnbroker.*

15 SEC. 35. *No reimbursement is required by this act pursuant*
16 *to Section 6 of Article XIII B of the California Constitution for*
17 *certain costs that may be incurred by a local agency or school*
18 *district because, in that regard, this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the*
20 *penalty for a crime or infraction, within the meaning of Section*
21 *17556 of the Government Code, or changes the definition of a*
22 *crime within the meaning of Section 6 of Article XIII B of the*
23 *California Constitution.*

24 *However, if the Commission on State Mandates determines that*
25 *this act contains other costs mandated by the state,*
26 *reimbursement to local agencies and school districts for those*
27 *costs shall be made pursuant to Part 7 (commencing with Section*
28 *17500) of Division 4 of Title 2 of the Government Code.*

29 ~~21625. It is the intent of the Legislature in enacting this~~
30 ~~article to curtail the dissemination of stolen property and to~~
31 ~~facilitate the recovery of stolen property by means of a uniform,~~
32 ~~statewide, state-administered program of regulation of persons~~
33 ~~whose principal business is the buying, selling, trading,~~
34 ~~auctioning, or taking in pawn of tangible personal property and to~~
35 ~~aid the State Board of Equalization to detect possible sales tax~~
36 ~~evasion.~~

37 ~~Further, it is the intent of the Legislature in enacting this article~~
38 ~~to require the uniform statewide reporting of tangible personal~~
39 ~~property acquired by persons whose principal business is the~~
40 ~~buying, selling, trading, auctioning, or taking in pawn of tangible~~

1 ~~personal property, unless the property or the transaction is~~
2 ~~specifically exempt pursuant to this article, for the purpose of~~
3 ~~correlating these reports with other reports of city, county, and~~
4 ~~city and county law enforcement agencies and further utilizing~~
5 ~~the services of the Department of Justice to aid in tracing and~~
6 ~~recovering stolen property.~~

7 ~~Further, it is the intent of the Legislature that this article shall~~
8 ~~not be superseded or supplanted by the provisions of any~~
9 ~~ordinance or charter of any city, county, or city and county.~~